

**The Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013**  
**The Consumer Protection from Unfair Trading Regulations 2008**  
**The Enterprise Act 2002 (As Amended)**  
**The Fraud Act 2006**  
**The Companies (Trading Disclosures) Regulations 2008**



I (*print name*).....

Trading as .....

Acknowledge receipt of a printed advice and guidance notice, advising me of my legal obligations and requirements under the above mentioned legislation.

I acknowledge that I MUST provide the Consumer with a written notice of their Legal Rights and obtain written authority from the Consumer if the work is to be started immediately.

Sign..... Date.....

Address.....

.....

.....

.....Postcode.....

Email.....

VRN.....Date of Birth.....

If the trader is unable to read, the issuing officer should read the form to him and ask him to sign or affix his mark to the declaration below :

I, ..... am unable to read.  
 ..... has read this form to me. I understand that I need to comply with the legislation listed above and that if there is anything I don't understand I should seek further advice.

Signed .....

Date .....

**FAILURE TO COMPLY WITH THE ABOVE LISTED LEGISLATION MAY RESULT IN CRIMINAL OFFENCES BEING COMMITTED AND MAY RENDER THE CONTRACTS ENTERED INTO UNENFORCEABLE.**

This advice pack has been prepared by The Welsh Heads of Trading Standards Doorstep Crime Group. The information contained is standardised throughout Wales and the provisions of the legislation described apply throughout Wales and England.

This leaflet has been prepared for guidance only. Only the Courts can interpret statutory legislation with any authority. The advice given is the best available based on evidence to hand at the time and is subject to amendment in the light of further evidence.



## Selling Services and Goods in a Consumers Home – Advice for Traders

### Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013



#### **Who do the Regulations apply to?**

The regulations apply to any trader who makes a contract to supply goods or services costing more than £42 (from June 2014) to a consumer made both on and away from Business Premises ('Off Premises') as follows:

- At the consumers home or place of work
- Where the consumer signs an order form/makes an offer during traders visit to their home, but trader agrees the contract later
- Where the contract is agreed on traders premises or through any means of distance communication immediately after a meeting with a consumer in a place that is not a traders place of business (i.e. from street sale and taken to Trader's office/details taken in street and followed up with e-mail)
- Where the contract is made with consumer on an excursion organised by the trader with the aim of selling or promoting their goods or services to the consumer

\*A trader who visits a consumer in their home and leaves a quotation (or sends one later) allowing them to decide and enter into a contract when they are ready to do so, will be entering into an 'On Premises Contract' and **will not** have to give cancellation rights.

Types of contracts covered:

**Sales Contracts** – includes contracts for the sale of goods and also for the supply of goods and services together (i.e. the supply and fitting of a patio).

**Service Contracts** – covers contracts that are for services only.

Some contracts are not covered, these include:

- **Supply of consumables by regular roundsmen** (such as milkman)
- **Construction of a new building** (or substantially new by way of conversion of existing buildings) \*Nb. Extensions to existing building will be covered.
- **Financial services**

\*There are other exemptions - for further information please contact your local Trading Standards Department.

A contract can be written or verbal (and can be binding even if it isn't written down). Written contracts protect both traders and consumers because they clearly show what has been agreed.

### **Are you a trader?**

You are a trader if you are acting in a commercial or business capacity when you make the contract. Anyone acting in the name of or on behalf of the trader is also included.

### **What do the Regulations say?**

Any consumer who makes a contract which is covered by the Regulations (i.e. buy goods, services or digital content off business premises) are automatically entitled to a 14 day cancellation period. The consumer can cancel the contract at any time within this cancellation period.

The trader must give the consumer information which is required by the Regulations (\*see p.3 & 4 below) in a clear, comprehensible and legible form before they enter into a contract.

### **What does the trader have to do?**

The trader must provide the consumer with the required information on paper or, if the consumer agrees, on another durable medium (such as paper, e-mail or other medium that allows the information to be addressed personally to the recipient, enables the recipient to store the information and to access it in future).

Failure to provide the information set out below would allow a consumer to claim that the trader has breached the contract and seek an appropriate remedy. The same claim would exist if any of the required information provided was incorrect.

Any changes to the required information before entering into the contract (or at any later stage) must be agreed with the consumer. If not, the consumer is not bound by the change of information.

If certain elements of the required information are not given before entering into the contract, a criminal offence may be committed. If so, there will be a maximum fine of up to £5,000.

### **Information required to be given (for Off Premises)**

- a) The main characteristics of the goods, services or digital content
- b) Traders identity
- c) The geographical address where established and where applicable a telephone number, fax number and e-mail address
- d) If acting on behalf of another trader - their identity and geographical address
- e) If the trader or trader acting on behalf of has a different address for consumer complaints this must also be given
- f) Total price of goods, services or digital content inclusive of tax (if can't be calculated in advance, say how it will be calculated)
- g) Delivery charges or any other costs (if can't be calculated in advance must state they are payable)
- i) Any additional costs if using specific means of distance communication for concluding the contract (\*unlikely in off premises contracts)
- j) Arrangements for payment, delivery or performance and the time that you will take to deliver the goods, perform the services or supply the digital content
- k) Complaints handling policy (if applicable)
- l) Conditions, time limits and procedure for exercising a right to cancel (if there is a procedure)
- m) If consumers are to pay the costs of returning goods after cancellation
- n) If offering a service contract that the consumer can expressly request to start within the

cancellation period, the consumer must be told that they will be required to pay reasonable costs for the service delivered up to the time of the cancellation (if within the cancellation period)

- o) If no cancellation rights for specific goods, services or digital content and there are circumstances in which consumers will lose their right to cancel must inform them of this
- p) If selling goods, remind consumers that the goods sold must be in conformity with the contract
- q) If offer any after-sales consumer assistance, services or guarantees, make them aware of this and any applicable conditions
- r) If a member of a code of conduct, must inform consumers how they can obtain a copy of the code
- u) If consumers are required to give deposits or other financial guarantees, must inform them of this and any applicable conditions
- x) Existence of any alternative dispute resolution schemes trader is subject to and how to access them

### **Copy or Confirmation of the Contract**

Once the contract is agreed with the consumer, they must be given a copy of the signed contract or confirmation of the contract. It must be on paper (or durable medium if consumer agrees) and any confirmation must include all of the applicable Informations marked 'a' to 'x'.

The copy of the contract or confirmation must be given no later than when the goods are delivered or the service commences.

If a dispute arises in relation to the compliance with the information requirement, the onus is on the trader to prove they have done so.

### **What happens if you do not give the required information?**

**Civil** - Failure to provide the information set out above would allow a consumer to claim that the trader has breached the contract and seek an appropriate remedy. The same claim exists if any of the above information that was provided was incorrect.

The consumer is not required to pay the costs of the following, if the information is not provided:

- 'g' - delivery charges and costs
- 'm' - cost of returning goods

**Criminal** - An offence will be committed if the following items are not given before entering into the contract (the maximum fine is £5,000):

- 'l' – the conditions, time limits & procedure for exercising the right to cancel
- 'm' – the cost of returning the goods
- 'n' - if consumer requests start within cancellation period, the trader must inform them of any reasonable costs to be paid up to the time of cancellation

The Regulations contain a legal defence of "due diligence". For such a defence, the trader must be able to prove that the offence was due to:

- The act or default of someone else
- Reliance on information supplied by someone else

The trader must also be able to prove that he took all reasonable precautions and exercised all due diligence to avoid the offence being committed by themselves or someone under their control.

This is a complicated area but is commonly interpreted as ensuring that the trader ensures that they and all of their employees know the law, that instructions are issued to all employees and that checks are made that the instructions are being followed.

### Cancellation Period

The cancellation period starts from when the contract was made until the end of the following period:

- **A Service Contract** – 14 days after the day on which the contract was made
- **A Sales Contract** (goods or goods and services) – 14 days after the day on which the last of the goods come into physical possession of the consumer or a person the consumer may ask for the goods to be delivered to

If the information regarding the right to cancel isn't provided, the cancellation period is extended to 14 days after the day that information was given. The longest this period can be extended to is 12 months from the day after the normal cancellation period would have ended.

### Cancellation or Withdrawal

There are two rights for consumers who decide not to proceed, they can either:

- **Withdraw their offer** - if it has not been accepted by the trader
- **Cancel a contract** - within a specified period and as long as there is a right to cancel

A consumer can withdraw from or cancel the contract within the cancellation period by informing the trader that they wish to do so. There is no requirement how this is done, but the Regulations advise that the consumer can exercise their right to cancel a contract by using a cancellation form (see 'Model Cancellation Form on p.9 but note, there is no requirement to use this) or this can be made by any other clear statement to inform the trader.

Cancellation will only be effective if the communication is sent to the trader before the end of the cancellation period – the key time is when the communication was sent, not when it was received. If there is a dispute the consumer must prove that they did cancel within the cancellation period.

### **Effect of Withdrawal or Cancellation**

Both parties' obligations under the contract are ended. The Consumer must be reimbursed by the trader all money they have paid, including any original delivery charge (but only at the basic delivery rate of the trader). No cancellation fees can be charged.

The Consumer **must** be reimbursed without undue delay and within 14 days from the day after they inform the trader of their decision, using the same payment method originally used (unless there is an agreement to use an alternative method).

Where a consumer withdraws an offer or cancels a contract, any ancillary contract will be cancelled without further cost. The trader must inform any third party with whom the consumer has the ancillary contract, that it is terminated.

### **Return of Goods within Cancellation Period**

The trader must collect any goods from a consumer following their cancellation if they have offered to do so and cannot charge unless this has been agreed. Also, if the goods were delivered to the consumers' home when the contract was made, then they must be collected by the trader without any charge (if by their nature they cannot be returned).

In all other cases, it is down to the consumer to send the goods back or hand them to someone authorised by the trader to collect. Any return of the goods must be within 14 days from the day the trader is informed of the intention to cancel.

### **Contracts with no right to cancel**

- Contracts not more than £42
- Supply of goods and services where prices are dependent upon fluctuations in the financial markets (does not include utility supplies of gas and electricity)
- Supply of goods made to consumer's specifications or they are personalised
- Contracts where consumer has specifically requested trader to call to their property and carry out urgent repairs (although the exemption does not apply to other goods or services provided at the same time)

### **What if the consumer wants the service or goods before the cancellation period is over?**

A customer can request a service contract (and the service element if this is a part of a sales contract) to be started within the cancellation period, but they must expressly request this using a durable medium.

However, they will lose the right to cancel a service contract that has been fully performed within the cancellation period, providing they requested the service and acknowledged that they would lose the right to cancel the contract once it has been fully performed.

In the case of a sales contract involving services, the consumer has the right to cancel and return the goods, but will have to pay for or receive no reimbursement for the service element of the contract.

Where a service has started within the cancellation period at the express request of the consumer, but it has not been completed, the consumer still has the right to cancel, however:

- The consumer will still have to pay for the service used up to the time when the decision to cancel was made

- The price to pay must be proportionate to what has been supplied (in comparison to the full price)
- If the total price is excessive (based upon the market price of what has been supplied), it will be recalculated by comparing the prices for similar services of other traders.

Consumers will not have to pay for services supplied in the cancellation period if the trader has failed to provide information such as:

- 'I' - conditions, time limits & procedure for exercising the right to cancel
- 'n' - if consumer requests start within cancellation period, the trader must inform them of any reasonable costs to be paid up until the time of cancellation

Also, if the trader starts the work within the cancellation period without the express request of the Consumer to do so within the cancellation period, then the Consumer will not have to pay if they decide to cancel. The onus will be upon the trader to show that the consumer knew they would have to expressly request the start of the work within the Cancellation period.

The following is a suggested form that could be used by a Consumer to expressly request that the work starts within the cancellation period.

### **REQUEST TO START WORK**

To *[Enter your full business name & contact details]*:

I/We hereby ask you to start work on our contract on a date that we will/have already agreed.

I/We understand that I/we have a right to cancel this contract, as described above, within the cancellation period which ends 14 days after I/we take possession of any goods that you are supplying. I/We also understand that following cancellation I/we may have to pay certain labour costs or have some reduction of our reimbursement as described above.

Contract/confirmation date:

Name of consumer(s),

Address of consumer(s),

Signature of consumer(s) (only if this form is notified on paper),

Date

### **Repair or Maintenance Contracts**

The Requirements do not apply if all of the following circumstances are met:

- Contract is a service contract
- Consumer has explicitly requested you to carry out the service for the purposes of carrying out repairs or maintenance
- Performance of the contract is immediate
- Cost of the contract is £170 or less



However, have to meet all of the following conditions:

- Must give consumer, or make available, the following information on paper (or other durable medium if agreed to) before the contract is entered into:
  - 'b' – identity
  - 'c' - geographical address
  - 'd' - info of other trader if acting on behalf of
  - 'f' - total price of goods
  - 'g' - delivery charges and costs
  - **Estimate of total price** (if it cannot be reasonably calculated)
  - **A Cancellation Form** (where the right to cancel exists)

\*The consumer **will not** have a right to cancel where they have specifically asked the trader to call and carry out urgent repairs or maintenance

This is a summary of complicated legislation. If you would like more detailed advice please contact your local Trading Standards Service or your legal advisor.

This is a brief guide to the Regulations. If you do not understand anything or need further information, please contact your local Trading Standards Service.  
**Caerphilly County Borough** Trading Standards can be contacted on **01495 235291**



This leaflet was produced by the Welsh Heads of Trading Standards (WHoTS)

[www.tradingstandardswales.org](http://www.tradingstandardswales.org)

## **Model Contract and Cancellation Notice**

### **SALES CONTRACT. OFF PREMISES. OVER £42**

*Customer Details*

*Trader Details*

### **Consumer Contracts (Information, Cancellation & Additional Charges) Regulations 2013**

#### **Important Information for Customers**

#### **Your rights**

It is our responsibility to supply you with goods and services that meet your consumer rights. If you have any concerns that we have not met our legal obligations please contact us, our contact details are given above.

If you are unclear about your rights or require advice, you can contact the Citizens Advice Consumer Service on 03454 04 05 06 or to speak to a Welsh Advisor 03454 04 05 05. Alternatively you can visit the website at [www.adviceguide.org.uk](http://www.adviceguide.org.uk)

#### **Cancellation - Your Rights**

*Trader to tick which applies*

- ☐ You have no right to cancel this contract because you contacted us and asked us to call to carry out urgent repairs or maintenance. Therefore the information set out below does not apply to this contract
- ☐ You have no right to cancel this contract because the goods that we will supply you will be made to your specification. Therefore the information set out below does not apply to this contract
- ☐ You have a right to cancel this contract and further information is given below

#### **Your right to cancel**

You have a right to cancel this contract without giving any reason. The cancellation period starts when we enter into a contract with you and will end 14 days after you have taken possession of the goods we are supplying you.

In order to exercise your right to cancel you must inform us of your decision by a clear statement (e.g. a phone call, letter sent by post, fax or email). You may use the attached cancellation form but you don't have to.

To meet the cancellation deadline you should let us know that you wish to cancel before the cancellation period has expired. If you want to put this in writing, this can be sent to us at the above address or by email.

#### **Effects of Cancellation**

If you cancel this contract we will reimburse you all that you have paid us, subject to certain possible deductions set out below. However, once we have delivered the goods you may want us to start work straight away and to do this we will need a specific request from you because of the cancellation period; this will mean you will still have a right to cancel but:

- you will have to pay a proportionate cost, which may include labour and any services we have carried out up to the point when you inform us of your decision to cancel
- we will not collect or remove any goods that we have installed, unless we have offered to do so. However, if the goods have not been installed and cannot be sent back to us by post, we will make arrangements to collect them
- you may remove the goods yourself and return them to us at the above address and at your own expense within 14 days of informing us of your decision to cancel unless this was offered by us
- we may reduce any reimbursement to take account of the loss in value of the goods caused by any handling by you

We will make the reimbursement without undue delay, and not later than:

(a) 14 days after the day that we received the goods that we supplied back from you, or

(b) (if earlier) 14 days after the day you provide evidence that you have returned the goods, or  
(c) if there were no goods supplied or if there were goods and we offered to collect them, 14 days after the day on which we are informed about your decision to cancel this contract.

We will make the reimbursement using the same means of payment as you used for the initial transaction, unless you have expressly agreed otherwise; in any event, you will not incur any fees as a result of the reimbursement.

We may withhold reimbursement until we have received the goods back or you have supplied evidence of having sent back the goods, whichever is the earliest.

## **CANCELLATION FORM**

To *[Enter your full business name & contact details]*:

I/We [\*] hereby give notice that I/We [\*] cancel my/our contract of sale of the following goods [\*] / for the supply of the following service [\*],

Ordered on [\*] / received on [\*],

Name of consumer(s),

Address of consumer(s),

Signature of consumer(s) (only if this form is notified on paper),

Date

[\*] Delete as appropriate

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## **REQUEST TO START WORK**

If you wish for the work to start before the end of the Cancellation Period, then you must put this request in writing, together with your acceptance that if the contract is fully preformed during this period and prior to any cancellation then you lose your right to cancel.

This request is to be made either via letter, e-mail or other durable medium (i.e. which allows the information to be addressed personally to the trader, and enables them to store the information and access it in future) and can be served personally, sent via e-mail or by mail to us at the address or via the contact details as above.

### **The Consumer Protection from Unfair Trading Regulations 2008**



#### **Who do the Regulations apply to?**

The Regulations apply to any person who is acting for a purpose relating to his business and anyone who is acting in the name of or on behalf of that trader.

The Regulations apply to the actions of traders in their contact with consumers.

#### **What do the regulations require?**

The regulations require traders to be fair when doing business with consumers

They outlaw unfair commercial practices. Unfair commercial practices includes practices which are:

- Misleading actions
- Misleading omissions
- Aggressive
- Banned

There are 31 "banned practices" listed in the schedule. Examples of the practices most likely to apply to doorstep sales are listed below :

- Making false claims about membership of trade associations or endorsements by prestigious organisations.
- Refusing to leave when asked.
- Making persistent and unwanted contact
- Telling a consumer your job will be at risk if they don't buy.

Aggressive Practices include:

- The use of harassment
- The use of threatening or abusive language or behaviour
- The use by the trader of any (consumers) misfortune which might affect the judgement of the consumer
- The use on undue influence.

#### **What are the consequences of trading unfairly?**

The regulations contain a number of criminal offences.

Any trader who trades unfairly with consumers or when trading with consumers

- Uses misleading acts or omissions
- Uses aggressive practices
- Uses banned practices

Can be prosecuted in the Magistrates or Crown Court.

### **What can traders do to comply with the law?**

Traders should ensure that they trade fairly with consumers and avoid creating any unfair imbalance.

Where an offence has been committed, the Regulations contain a legal defence of “due diligence”.

To be able to rely on this defence the trader must be able to prove that any offence was due to:

- A mistake
- Reliance on information supplied by someone else
- The act or default of someone else
- An accident or
- Another cause beyond his control

The trader must also be able to prove that he took all reasonable precautions and exercised all due diligence to avoid the offence being committed by himself or someone else.

This is a complicated area but is commonly interpreted as ensuring that the trader ensures that he and all his employees know the law and that he issues instructions to employees and checks that his instructions are being followed.

### **Are there any other effects of not complying with the Regulations**

If a trader is shown to have traded unfairly and is likely to continue to use the same unfair practice, the Trading Standards service and other organisations can apply to the civil court for an order against him (to trade fairly) using the Enterprise Act 2002 (As Amended).

This is a summary of complicated legislation. If you would like more detailed advice please contact your local Trading Standards Service or your legal advisor.

**Caerphilly County Borough Council** Trading Standards can be contacted on **01495 235291**

This leaflet was produced by the Welsh Heads of Trading Standards (WHoTS)



## **Selling Services and Goods in a Persons Home – Guidance for Traders**

### **The Fraud Act 2006**



The Act, which came into force in November 2006, creates a new general offence of fraud and introduces the three possible ways of committing it. As the name suggests fraud is a serious offence and carries a maximum sentence of up to 10 years imprisonment and an unlimited fine.

#### **Fraud by false representation**

You would commit fraud by false representation if you knowingly lied about the extent of any work required or about any work that you incorrectly claim to have done. Fraud by false representation could also include gross overcharging.

#### **Fraud by failing to disclose information that there is a legal duty to disclose**

Fraud by failing to disclose information would apply to situations where you are under a duty to tell the customer something or provide them with a notice, such as, notice of their cancellation rights and you fail to do so.

#### **Fraud by abuse of position**

This makes it an offence to commit a fraud by dishonestly abusing one's position. It applies in situations where you have been put in a privileged position, and by virtue of this position you are expected to safeguard another's financial interests or not act against those interests.

This is a summary of complicated legislation. If you would like more detailed advice please contact your local Trading Standards Service or your legal advisor.

**Caerphilly County Borough Council** Trading Standards can be contacted on  
**01495**

This leaflet was produced by the Welsh Heads of Trading Standards (WHOTS)



**The Companies (Trading Disclosures) Regulations 2008**



**What is this legislation about?**

From 1<sup>st</sup> October 2009, the Companies (Trading Disclosures) Regulations 2008 have replaced the Business Names Act 1985.

**Who does it apply to?**

- Any Limited Company, individual or partnership

**What do traders need to do?**

You will need to disclose at your registered office and inspection place(s), and any other location at which you carry on business (except where the location is primarily a domestic location) and any business letters, order forms or websites, the following:

- Registered company name;
- Place of registration (for example, Scotland, or England and Wales);
- Registered number;
- Address of registered office;
- If exempt from having "limited" as part of name, disclose it is a limited company;
- if it is being wound up, that fact

**How must the information be disclosed?**

The information must be disclosed on:

- all the company's business letters or order forms
- all its notices and other official publications
- all bills of exchange, promissory notes, endorsements, cheques and orders for money or goods purporting to be signed by, or on behalf of, the company
- all its bills for parcels, invoices and other demands for payment, receipts and letters of credit
- applications for licenses to carry on a trade or activity
- all its websites

## Additional requirements for Limited Companies

Limited companies must also display their registered name at their registered office, in a place where the information can be read easily. The registered name and number must also be given on:

- Notices & official publications;
- Bills of exchange;
- Promissory notes;
- Endorsements;
- Cheques;
- Orders for money, goods or services;
- Bills of parcels;
- Invoices & demands for payment;
- Receipts;
- Letters of credit;
- Applications for licences to carry on a trade or activity;
- All other forms of business correspondence/documentation;
- Signs at premises.

Where a business letter includes the name of a director, the letter must disclose the name of every director

This is a summary of complicated legislation. If you would like more detailed advice please contact your local Trading Standards Service or your legal advisor.

Further details can be obtained by contacting Companies House by telephone (0870 33 33 636) or by visiting the Companies House website.

This is a brief guide. If you do not understand anything or need further information, please contact your local Trading Standards Service.

**Caerphilly County Borough Council** Trading Standards can be contacted on **01495**

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